

ZB# 07-30

MMJS, Inc.

67-5-6

07-30
M.M.T.S., INC. AREA/USE
Rt. 94 (67-5-6)

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
Granted 8-13-07

NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 67-5-6

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING

MMJS, INC.

AREA/USE

CASE #07-30

WHEREAS, Joseph Minuta, AIA represented the , owner(s) of 1101 Route 94, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Request for:

Interpretation and/or Use Variance for Existing three-family dwelling converted to four-family and;

18 ft. Side Yard Setback for Existing Side Deck and;

43 ft. Front Yard Setback for existing 5 ft. X 16 ft. Front Deck and;

43 ft. Front Yard Setback for existing 5 ft. X 20 ft. Front Deck

All at 1101 Route 94 in an NC Zone (67-5-6)

WHEREAS, a public hearing was held on August 13, 2007 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared on behalf of this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor of or in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Official Town Newspaper, also as required by law.

2. The Evidence presented by the Applicant showed that:

- (a) The property is a multi-family residential property located in a mixed neighborhood of residential and commercial properties on a busy commercial highway in an NC zone.
- (b) The applicant produced evidence that the property was constructed prior to the existence of zoning and that the property has been continuously used as a four-family house from that time. Used being defined as "Being held out as a four-family unit for which rental was sought".
- (c) No complaints have been received about either deck either formally or informally.
- (d) The decks are located in the front of the building and they protect the building from traffic and are a safety issue.
- (e) The decks are similar in size and nature to other decks in the neighborhood.
- (f) Both decks are a means of egress out of the dwelling and a person exiting the dwelling, if the decks were not there, would be likely to sustain serious physical injury.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

- 1. The ZBA finds that the construction of the dwelling predates the establishment of zoning in the Town of New Windsor and that it is an allowed use as a four-family dwelling.
- 2. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- 3. There is no other feasible method available to the Applicant that can produce the benefits sought.
- 4. The variance(s) requested is/are substantial in relation to the Town regulations but, nevertheless, are warranted.
- 5. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
- 6. The difficulty the Applicant faces in conforming to the bulk regulations is/are self-created but, nevertheless, should be allowed.

7. The benefit to the Applicant, if the requested variance(s) is/are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
8. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
9. The interests of justice will be served by allowing the granting of the requested area variance(s).

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a Request for:

Interpretation and/or Use Variance for Existing three-family dwelling converted to four-family and;

18 ft. Side Yard Setback for Existing Side Deck and;

43 ft. Front Yard Setback for existing 5 ft. X 16 ft. Front Deck and;

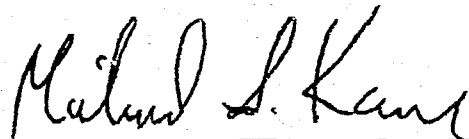
43 ft. Front Yard Setback for existing 5 ft. X 20 ft. Front Deck

All at 1101 Route 94 in an NC Zone (67-5-6) as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and/or Building Inspector and Applicant.

Dated: August 13, 2007



Chairman

2 of 4

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 1/4/07

APPLICANT: MMJS, Inc.
PO Box 252
LaGrangeville, NY 12540

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : Existing 4x15 side deck

LOCATED AT: 1101 Route 94

ZONE: Sec/Blk/ Lot: 67-5-6

DESCRIPTION OF EXISTING SITE:

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing 4x15 side deck does not meet minimum 40ft set-backs.

COPY


BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: NC USE: F-6 (R-3 zone)

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD: 40ft

22ft

18ft

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

DEC 28 7006

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Wall water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and percolation test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

FOR OFFICE USE ONLY:
Building Permit #: _____

**AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS
REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED**

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

☒ Owner of Premises MMJS, Inc.
☒ Address 1101 Rt 94 New Windsor, NY 12550 Phone # (917)-215-8161
☒ Mailing Address P.O. Box 252 Lagrangeville, NY 12540 Fax # _____

Name of Architect _____

Address _____

Phone _____

Name of Contractor _____

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder _____

If applicant is a corporation, signature of duly authorized officer. _____
(Name and title of corporate officer)

1. On what street is property located? On the _____ side of _____
(N, S, E or W)
and _____ feet from the intersection of _____

2. Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____

3. Tax Map Description: Section 67 Block 5 Lot 6

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy _____ b. Intended use and occupancy _____

5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☒ Other Existing

6. Is this a corner lot? _____

7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories _____

8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____

Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil _____

Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost _____ Fee \$50.00

PAID

date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Lisi & Louis Kryshear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 683-4818
(845) 683-4895 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, place or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

P.M.M.S. INC (Yonkers, NY) P.O. Box 282 Lagrangeville, NY 12540
(Signature of Applicant) (Address of Applicant)

P.M.M.S. INC (Yonkers, NY) P.O. Box 282 Lagrangeville, NY 12540
(Owner's Signature) (Owner's Address)

PLOT PLAN

NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.

N

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
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- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

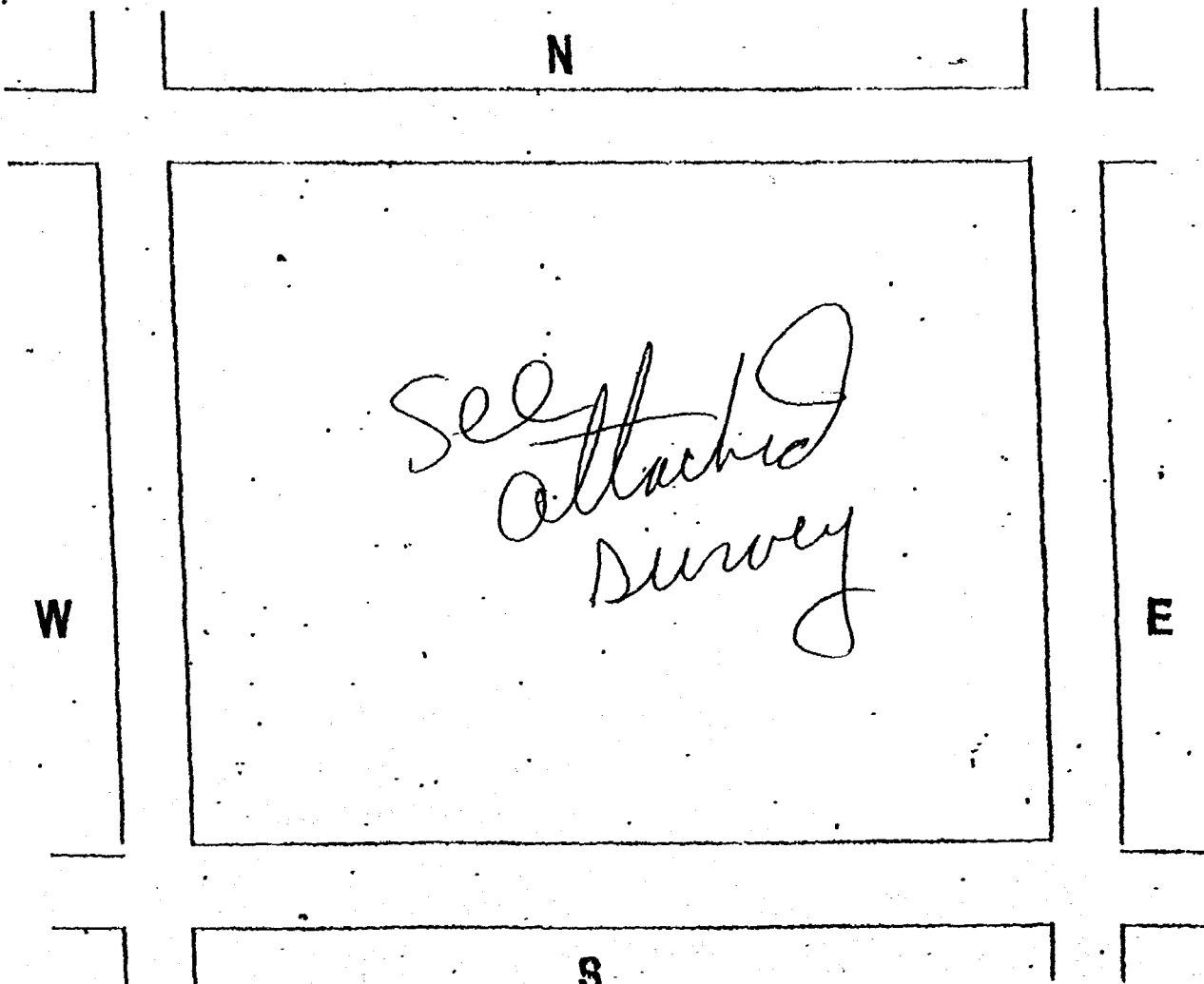
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AMMS, INC (Yorktown) P.O. Box 282 Lagrangeville, NY 12540
(Signature of Applicant) (Address of Applicant)

AMMS, INC (Yorktown) P.O. Box 282 Lagrangeville, NY 12540
(Owner's Signature) (Owner's Address)

PLOT PLAN

NOTE: Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



L.12020 P.1393

Area: $0.22 \pm \text{Acte}$

Lot 6

Building

Mac. N63°32'22"E

Macadam

White Line

Stone Parking

Stone Drive

WgM
Cap

Conc.	Conc.
-------	-------

**Steel
Plate**

Building

**Enclosed
Porch**

Stone Parking

Original Lot Line

Mac. Shoulder

N/F Smith
L12020 P.1393

Lot 3

North

New York State Route 94

Note: Lot numbers refer to a filed map entitled "Subdivision Of Lands Of Mrs. Frank Maurice", said filed map being filed in the Orange County Clerk's Office on January 28, 1952 as Map No. 1493.

Survey Map

Prepared For

Yu Hei Tung

Town of New Windsor
Scale: 1"=20'

Orange County, N.Y.
December 18, 2006

Unauthorized alteration or addition to a survey map bearing a Licensed Land Surveyor's seal is a violation of Section 7209(2) of the New York State Education Law. Only copies from the original of this map, marked with an original of this Land Surveyor's embossed seal, shall be considered valid, true copies. Certification indicated hereon signifies that this map was prepared as the result of an actual field survey performed by me or under my direct supervision, on or before the date of this map, and in my opinion and belief to be true and correct. Certification shall only run to the person(s) for whom this map was prepared, and on his/her behalf to the title company, governmental agency and lending institution listed hereon. Certification is not transferable to additional institutions nor subsequent owners. Underground improvements or encroachments, if any, are not shown. Use of this map for either an update or survey inspection shall void this map.

Robert D. Kalaka, L.S.
P.O. Box 250
Wappingers Falls, N.Y. 12590
(845) 297-5229

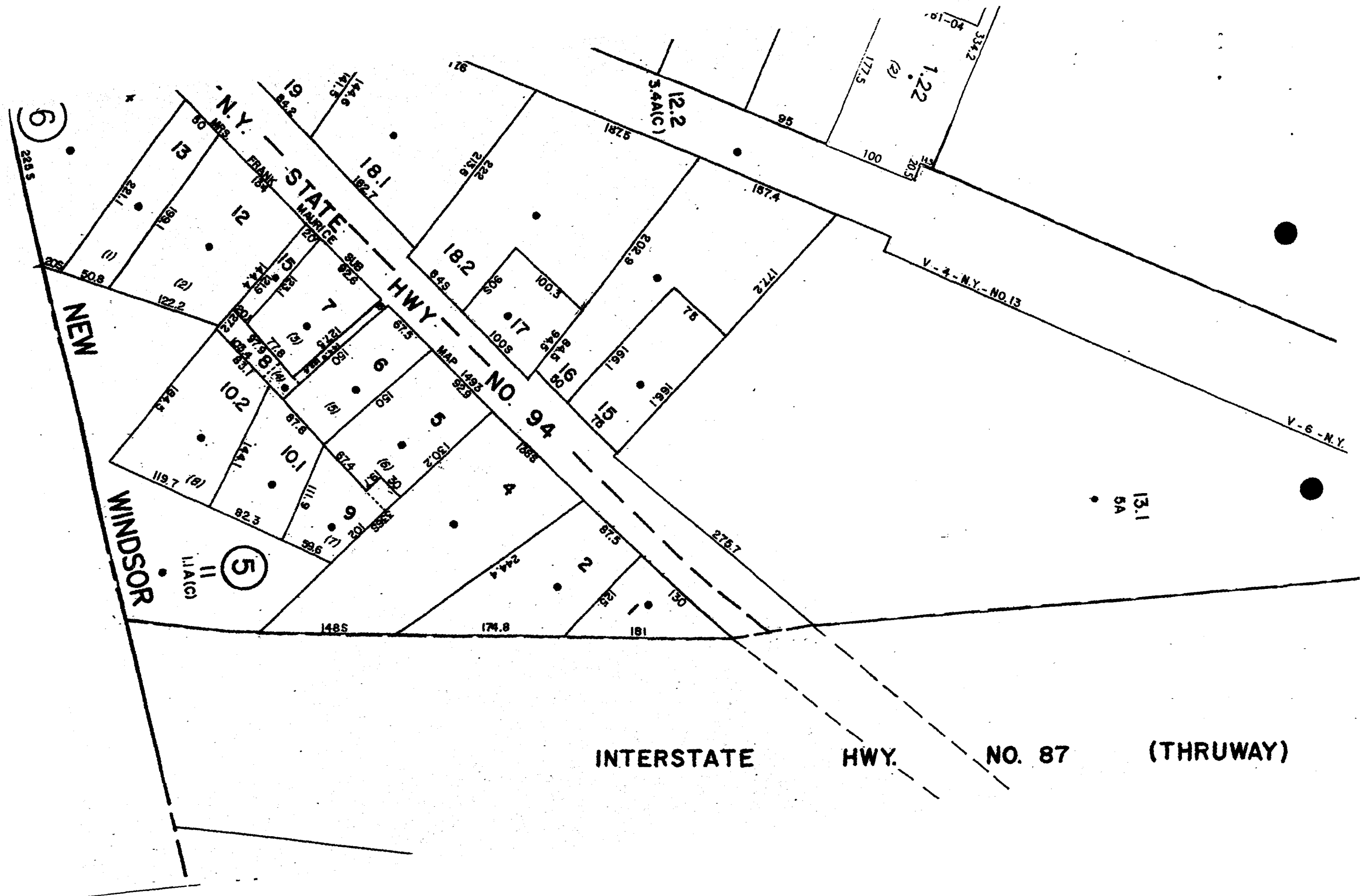
Certification List:

Yu Hei Tung

RD
MC

1554

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4/24/2007
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4/24/2007
IMG_0211.JPG



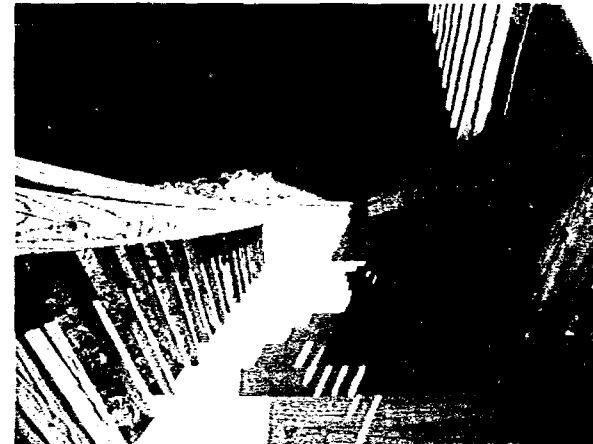
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**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

TO: JACK FINNEGAN, COMPTROLLER
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: NOVEMBER 9, 2007
SUBJECT: ESCROW REFUND

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 320.78 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #07-30

NAME & ADDRESS:

**YU HEI TUNG
P.O. BOX 1
WESTMONT, IL 60559**

THANK YOU,

MYRA

J.F. 11/9/07



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECORD OF CHARGES & PAYMENTS**



FILE #07-30
215-8161

TYPE: INTERP. AND/OR VARIANCE

TELEPHONE: 917-

APPLICANT:
MMJS, Inc.
P.O. Box 252
LaGrangeville, NY 12540

RESIDENTIAL:	\$ 50.00	CHECK # _____
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # <u>692</u>

ESCROW: COMMERCIAL \$500.00 CHECK # 691



<u>DISBURSEMENTS:</u>		<u>MINUTES</u>	<u>ATTORNEY</u>
		<u>\$7.00 / PAGE</u>	<u>FEE</u>
PRELIMINARY:	<u>7</u> PAGES	<u>\$ 49.00</u>	<u>\$ 35.00</u>
2 ND PRELIMINARY:	<u> </u> PAGES	<u>\$ _____</u>	<u>\$ _____</u>
PUBLIC HEARING:	<u>6</u> PAGES	<u>\$ 42.00</u>	<u>\$ 35.00</u>
PUBLIC HEARING:	<u> </u> PAGES	<u>\$ _____</u>	<u>\$ _____</u>

LEGAL AD: Publish Date: 8/3/07 \$ 18.22

TOTAL: \$ 109.22 \$ 70.00



ESCROW POSTED: \$ 500.00
LESS: DISBURSEMENTS: \$ 179.22

AMOUNT DUE: \$ _____

REFUND DUE: \$ 320.78

Cc:

J.F. 11/09/07



RESULTS OF Z.B.A. MEETING OF: August 3th, 2007

PROJECT: MMJS, Inc.

ZBA # 07-30

F.B.#

USE VARIANCE:

NEED: EAF

PROXY

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

GANN
LUNDSTROM
LOCEY
TORPEY
KANE

CARRIED: Y____N____

PUBLIC HEARING: M)_____ S)_____ VOTE: A_____ N_____

GANN
LUNDSTROM
LOCEY
TORPEY
KANE

CARRIED: Y_____N_____

NEGATIVE DEC: M) S) VOTE: A N

GANN
LUNDSTROM
LOCEY
TORPEY
KANE

CARRIED: Y N

APPROVED: M) S) VOTE: A N

GANN
LUNDSTROM
LOCEY
TORPEY
KANE

CARRIED: Y N

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M)___ S)___ VOTE: A___ N___

~~GANN~~ _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y_____ N_____

Inter. m) KL s) PT

Decks m) KL S) EL

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES

VARIANCE APPROVED: M) 1 S) 1 VOTE: A 4 N 0
4 0

~~GANN~~
LUNDSTROM
LOCEY
TORPEY
KANE

CARRIED:- Y___ N___.

[illegible]



THE SENTINEL

P.O. BOX 406
VAILS GATE, NY 12584

Invoice

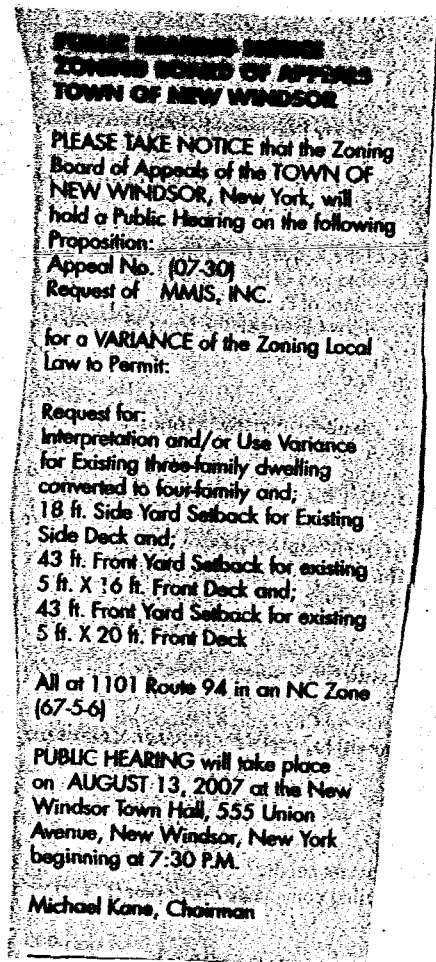
Date	Invoice #
9/5/2007	723

Bill To

TOWN OF NEW WINDSOR
555 UNION AVE
NEW WINDSOR, NY 12553

P.O. No.**Terms****Project**

Issue Date	Description	Rate	Amount
8/3/2007	LEGAL ADS: PUBLIC HEARING NOTICE MMJS (07-30)	14.22	14.22
	1 AFFIDAVIT	4.00	4.00
<div data-bbox="533 1029 852 1265" data-label="Image"></div>			
Total			\$18.22



State of New York

County of Orange, ss:

Kathleen O'Brien being duly sworn disposes and says that she is the Supervisor of Legal Dept. of the E.W. Smith Publishing Company; Inc., Publisher of The Sentinel, a weekly newspaper published and of general circulation in the Town of New Windsor, Town of Newburgh and City of Newburgh and that the notice of which the annexed is a true copy was published in said newspaper, 1 time (s) commencing on the 3rd day of August A.D., 2007 and ending on the 3rd day of August A.D. 2007

Kathleen O'Brien

Subscribed and shown to before me this 14th day of Sept, 2007.

Deborah Green

Notary Public of the State of New York
County of Orange.

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
#4984065
Commission Expires July 15, 2011

My commission expires _____.

MMJS, INC. (07-30)

Mr. Joseph Minuta appeared before the board for this proposal.

MS. GANN: Request for use variance for existing three-family dwelling converted to four-family and 18 foot side yard setback for existing side deck, 43 foot front yard setback for existing 5 foot x 16 foot front deck and 43 foot front yard setback for existing 5 foot x 20 foot front deck all at 1101 Route 94 in an NC zone.

MR. MINUTA: Good evening, ladies and gentlemen of the board, Joseph Minuta of Minuta Architecture here to represent the client, the owners are here in the audience. We have Yu Hei Tung Suen, one of the owners, she's here with her daughter, Mary. The project is here before you tonight because they had purchased the property with the understanding that it was a four, had four apartments. It's currently designed and constructed to have four apartments. However, the town has not permitted this use for this area, that's why we're here tonight. Currently it has a Certificate of Occupancy for three apartments. I have prepared the plan of the existing conditions showing the various apartments, first floor and second floor, they're already constructed, they have obviously been occupied prior to this and what we're trying to do tonight is bring everything up to code compliance and zoning as well. So for your information this evening we have in particular the use variance, 18 foot side yard setback for the existing side deck and that deck currently exists in the front here and here, the 43 foot front yard setback for the existing 5 foot by 16 foot deck in the front and there's another one 5 x 20 in the front. So those are the items we're seeking a variance for this evening. We're proposing should this board look favorably upon the fourth apartment which exists to provide adequate parking in the rear of the property.

June 25, 2007

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We currently have three spaces, we can provide a fourth space and provide accessibility to the basement, not the basement, the first floor level apartments in the form of wheelchair or ambulatory access. To orient you to the site it's just passed the Thruway trestle near Tarkett on 94 on the left-hand side, there's a series of single family homes and commercial property across from that. I believe you have the benefit of the photographs and for your reference there's a rendering of the site.

MR. TORPEY: So it always was four apartments?

MR. MINUTA: It was previously being occupied to our knowledge as four apartments, they're already constructed, the one that's built obviously it's been there for a while. The town didn't have documentation of it, it was purchased on foreclosure, it was being purchased with the understanding that it was four apartments, that's why we're here tonight.

MR. TORPEY: Got gas, electric and everything there?

MR. MINUTA: Everything's set up, kitchen's in, everything is in.

MS. LOCEY: Is a three unit dwelling a permitted use?

MR. MINUTA: It's currently permitted through a set of occupancy prior to zoning, currently this zone does not permit that but we're neighborhood commercial and if you're familiar with the area most of the properties are commercial on or about that strip of 94.

MR. KRIEGER: So it appears that the question is it's pre-existing, non-conforming, sounds like it's a pre-existing, non-conforming use for three units, now the question is is it, is four units allowed. And I would suggest to the board that they ask for an interpretation failing that a use variance because if

the fourth unit falls under the pre-existing umbrella then they don't need a use variance, obviously is set up for a fourth unit.

MR. TORPEY: How many units are really there?

MR. MINUTA: Four.

MS. GANN: So Joe just for the record you're not doing any construction, everything is already there in the structure of this building?

MR. MINUTA: For the record, the building exists as it is, as is documented here in the plans. Furthermore, we're upgrading the apartments because there's an existing non-conforming, obviously it's an old building, there's an existing, non-conforming ceiling height so we have already been to the state, we're requesting a height variance when we met with them and they're providing that, we're providing interconnected battery backup. And what else are we doing, just providing accessibility as required.

MR. KRIEGER: You're not changing the footprint of the building?

MR. MINUTA: We're not changing the footprint of the building, we're altering the rear stair because it was not constructed properly for accessibility, so that's going to be reconstructed but other than that, the existing footprint and internal structure of the building will remain as such.

MR. LUNDSTROM: One question, Madam Chairwoman, when the people who currently owned the building when they first bought it who did they hear from that it was a four-family dwelling? Did anyone in the town give them that indication or the agency that they purchased it from?

June 25, 2007

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MR. MINUTA: It's our understanding the agency that they purchased it from obviously it's foreclosure, doesn't go through the normal parameters of a sale, so with regard to that I would defer to the client and the property was understood to be four family and that came through the foreclosure agent.

MS. SUEN: Yes.

MR. LUNDSTROM: How long ago did they acquire the property?

MS. SUEN: November 29, 2006.

MR. MINUTA: November 29, '06.

MR. LUNDSTROM: Formally from what I understand the banks before they issue a mortgage will write a letter to the towns asking for copy of the C.O. for the use that they perceive it as. Did that ever happen?

MR. MINUTA: We're currently working with the bank on this case cause I think they missed it. As well we have been in contact with them with regard to the loan and the extensions and so forth.

MR. TORPEY: Foreclosure's a whole different ball game with anything.

MR. LUNDSTROM: But still with a foreclosure the bank has to offer the money to--

MR. TORPEY: So sometimes you don't need a bank.

MS. LOCEY: But was the mortgage requested and granted based on it being four family?

MR. KRIEGER: Obviously, if it was foreclosed there must have been a mortgage, except foreclosure would indicate by definition.

June 25, 2007

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MS. LOCEY: Well, the other people that had to be satisfied the purchaser didn't have a mortgage then there would be no bank.

MR. KRIEGER: The purchaser?

MS. LOCEY: Yeah, the applicant, was there a mortgage?

MR. MINUTA: The bank is involved with a mortgage.

MR. KRIEGER: I didn't understand Mr. Lundstrom's question to be with respect to that, I understood it to be with respect to the issue, the original issue and the foreclosing bank, if they loaned money based on a representation that it was a four family house, four family unit, four unit dwelling then that would be a means of establishing at least that far back.

MS. LOCEY: But there's a bank with an interest in it with the current owner.

MR. MINUTA: Absolutely.

MS. LOCEY: And that mortgage has been secured or waiting for this?

MR. MINUTA: Has your mortgage been secured for the property?

MS. SUEN: Approved, yes, there's a certain amount that they want it approved for, they keep the same amount.

MR. TORPEY: They own the house?

MR. LUNDSTROM: Did they approve the mortgage as a two family or four family house?

MS. SUEN: They're waiting for the variance, I mean, we're waiting for the C.O. for the fourth.

MR. MINUTA: They're waiting for a C.O. for the fourth. All of this came up after the fact they were cited by the town building department because there's nothing on file with respect to the building, what its configuration was since its existence, the only item that they did have on file which I met with Frank Lisi in the field was that it was a three family, always been used as a three family to their knowledge so this however long this fourth apartment has been in existence we really do not know but the understanding is that it's constructed, it existed and we're coming to you to make this whole if you will.

MS. LOCEY: So these people purchased this in good faith as a four family building?

MR. MINUTA: That's correct.

MS. LOCEY: Received a mortgage but sometime along the line there was this problem is it a legal three family or a legal four family, now the bank wants clarification.

MR. MINUTA: That's correct.

MS. LOCEY: I think that as this application is forward we should amend the presentation that we ask for either an interpretation or lack thereof for a use variance, that's what the request should be for an interpretation and/or use variance, not just a use variance as it's stated here.

MR. MINUTA: If that pleases the board, we'd be happy to make that modification.

MS. GANN: Any other questions from the board?

MR. LUNDSTROM: I think it's a valid request because the ability of this board to grant a use variance our

June 25, 2007

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hands are tied by state law, there's got to be a lot of, basically, you're going to have to be able to prove that the new owners would not be able to get a reasonable return on their investment if it were not for that and that's going to be very difficult to prove.

MR. MINUTA: Very well.

MS. GANN: I'll accept a motion.

MS. LOCEY: I'll offer a motion to schedule a public hearing on the application of MMJS, Inc. for an interpretation and/or use variance and other setback variances all as detailed on the agenda for the New Windsor ZBA dated June 25, 2007 at 1101 Route 94.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

August 13, 2007

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PUBLIC HEARINGS

MMLS, INC. (07-30)

Mr. Joseph Minuta appeared before the board for this proposal.

MR. KANE: Request for interpretation and/or use variance for existing three-family dwelling converted to four-family and 18 foot side yard setback for existing side deck, 43 foot front yard setback for existing 5 foot by 16 foot front deck and 43 foot front yard setback for existing 5 foot by 20 foot front deck all at 1101 Route 94.

MR. MINUTA: Mr. Chairman, Joseph Minuta with Minuta Architectural representing MMJS, Inc. for the property. We were before you last for a preliminary hearing, we discussed the property, we have the understanding that it predates not only the Certificates of Occupancy but also zoning. We have obtained a letter from an individual which we supplied earlier today.

MR. KANE: From Mr. Golden.

MR. MINUTA: Yes.

MR. KANE: Let the record show that on August 10, 2007 I'll read this into the record. To Whom It May Concern: I, Matthew Golden, have lived in New Windsor area my whole life. To the best of my knowledge, 1101 Route 94 has always and continuously been used as a four-family dwelling. I have provided my New York State driver's license number, date of birth below to use for further verification purposes. Thank you very much for your time. And it's stamped by a public notary and signed by Matthew Golden. Also witnessed I would guess that's the notary.

MR. TORPEY: Does he live next door?

MR. MINUTA: He's a neighbor next door.

THE APPLICANT: He lives in the building right now, he was born in New Windsor.

MR. KANE: Thank you. That's about it.

MR. MINUTA: I'm happy to answer any questions you have. We have already been through the project once, obviously, it's a existing non-conformance. The client just to refresh your memory purchased this property at foreclosure. Certain things were not disclosed at the time, that's why we're here to bring everything up to code pending approval tonight for the four family use, we'd also be complying with New York State Building Code for different occupancy variances, we have been in contact with New York State the regional office, they're willing to provide the variances requested for ceiling heights, smoke detectors and others which my client will be complying with as well as building department issues such as the stairs and some other items that need to be clarified.

MR. KANE: For the record, how old is the building?

MR. MINUTA: I don't have that information but we understand it was constructed prior to 1966.

MR. KANE: Why don't we do this, why don't we address the decks, we'll take these issues one at a time.

MR. BABCOCK: Mr. Chairman, the building according to our records the building was built in 1880.

MR. KANE: That predates zoning. Let's start off with a 5 x 20 deck.

MR. MINUTA: Yes, the decks are in the front of the property and essentially there's guardrails and there's

windows that adjoin those. So from a safety perspective they're in the front of the building and the windows serving as egress would also protect them from traffic, excuse me, the deck and the guardrail would protect them from traffic and again they're existing.

MR. KANE: And the rails that are in the front of the house those are the ones they protect the deck from the outside?

MR. MINUTA: That's correct, we're very, very close to the road.

MR. KANE: Do you know how old the decks are?

MR. MINUTA: They're relatively new in construction but that could have been a replacement.

MR. KANE: Do you know of any complaints formally or informally about the decks?

MR. MINUTA: Not that we're aware of.

MR. KANE: And the decks are not oversized for that particular neighborhood?

MR. MINUTA: No.

MR. KANE: Then we have a 4 x 15 side deck.

MR. MINUTA: That's a means of egress out of the second apartment.

MR. KRIEGER: Second means of egress.

MR. MINUTA: That's the main means of egress.

MR. KANE: How big is the deck, Joe, approximately for the record?

MR. MINUTA: Five by sixteen and we had the 5 x 20.

MR. KANE: I think I'm seeing two doors that come out to that deck, is that correct?

MR. MINUTA: That's the rear deck, that has two occupancies on the second floor, both are apartments and they both, that deck serves as a means of egress to those occupants.

MR. KANE: Without the deck there it's a safety issue?

MR. MINUTA: Absolutely.

MR. TORPEY: That's the only deck in the back yard, just the one deck?

MR. MINUTA: That's correct. That area isn't to be used as a deck either, it's technically not large enough to be used as a deck, strictly means of egress for both of those.

MR. TORPEY: The rest of them are sitting on the ground.

MR. MINUTA: Exactly.

MR. KANE: Okay, at this point, I'm going to open it up to the public and ask if there's anybody in the audience for this particular hearing that wants to speak? And seeing as there's not, we'll close the public portion of the meeting and ask how many mailings we had.

MS. GALLAGHER: We had 34 addressed envelopes with no returns back.

MR. KANE: Just let the record note we just had the one letter that I read into the record earlier from Mr.

Golden. As far as the interpretation we'll handle that one first, interpretation of use, it's from what we're seeing here it's always been used as a four-family home.

MR. TORPEY: That's just when it sold it got picked up on there.

MR. KANE: And you have actually there's four from what I see in the pictures four electric meters coming into the house already?

MR. MINUTA: There are four distinct apartments, two on the main, two on the second floor.

MR. KANE: Do you know how long that has been used as four family, how long the electric's been there? Just get a little bit more info.

MR. MINUTA: Other than Mr. Golden's testimony with his letter I don't have that information, it predates so many different things being of occupancy and zoning itself that there's really no record that we were able to obtain.

MR. TORPEY: It's been a long time.

MR. MINUTA: Yes.

MR. KANE: Does the board have any further questions? I'd like to make a motion this way, let's do the interpretation and/or use first and then we can take the decks all three at the same time so accept a motion.

MS. LOCEY: I'll offer a motion that the application be interpreted as an existing or pre-existing four-family house as presented on the agenda of the August 13, 2007 Zoning Board of Appeals meeting.

August 13, 2007

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MR. TORPEY: I'll second that.

ROLL CALL

MR. TORPEY	AYE
MS. LOCEY	AYE
MR. LUNDSTROM	AYE
MR. KANE	AYE

MR. KANE: I'll accept a motion on all three decks.

MS. LOCEY: I'll offer a motion to grant the variances as for the existing, for all three existing decks on the application of MMJS, Inc. as detailed on the agenda of the August 13, 2007 Town of New Windsor Zoning Boards of Appeals meeting.

MR. LUNDSTROM: I'll second that.

ROLL CALL

MR. TORPEY	AYE
MS. LOCEY	AYE
MR. LUNDSTROM	AYE
MR. KANE	AYE

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(845) 563-4611

RECEIPT
#502-2007

07/06/2007

Tung, Yu Hei
P.O. Box 1
Westmont, IL 60559

**Received \$ 150.00 for Zoning Board Fees, on 07/06/2007. Thank you for
stopping by the Town Clerk's office.**

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

ZBA #07-30 Application fee

August 10, 2007

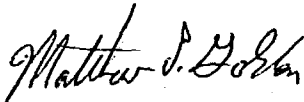
To whom it may concern:

I, Matthew Golden, have lived in the New Windsor, NY area my whole life. To the best of my knowledge 1101 route 94 has been always and continuously used as a four family dwelling.

I have provided my New York state driver's license number and my date of birth below to use for further verification purposes at your convenience. Thank you very much for your time.

NY state driver's license: 574 470 836 exp 6/27/08
Date of Birth: 8/31/72

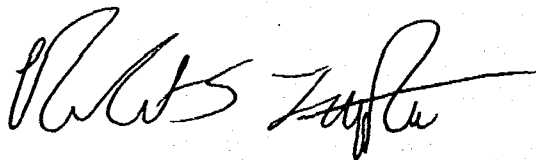
Yours truly,



Mathew Golden

ROBERT S. FITZPATRICK
Notary Public - State of New York
No. 01F16161325
Qualified in Orange County
My Commission Expires 02/26/2011

Witness:



August 10, 2007

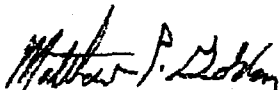
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I, Matthew Golden, have lived in the New Windsor, NY area my whole life. To the best of my knowledge 1101 route 94 has been always and continuously used as a four family dwelling.

I have provided my New York state driver's license number and my date of birth below to use for further verification purposes at your convenience. Thank you very much for your time.

NY state driver's license: NY 578 470 836 CXP 6/27/08
Date of Birth: 8/31/72

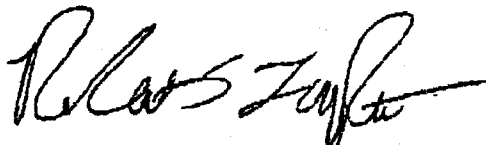
Yours truly,



Mathew Golden

ROBERT S. FITZPATRICK
Notary Public - State of New York
No. 01F16161325
Qualified in Orange County
My Commission Expires 02/28/2011

Witness:



**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR
COUNTY OF ORANGE: STATE OF NEW YORK**

MMJS, Inc.

AFFIDAVIT OF SERVICE BY MAIL

#07-30

X

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

That I am not a party to the action, am over 18 years of age and reside at 25 Ona Lane, New Windsor, NY 12553.

That on the 2nd day of **August, 2007**, I compared the **34** addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the ~~Town~~ of New Windsor.

Sworn to before me this

~~Jennifer Gallagher~~

13th day of August, 2007

Mary Ann Hataling
Notary Public

MARY ANN HOTALING
Notary Public, State of New York
No. 01H05062877
Qualified in Orange County
Commission Expires July 8, 2010

PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing on the following Proposition:

Appeal No. (07-30)

Request of MMJS, INC.

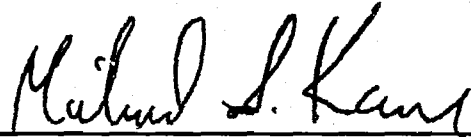
for a VARIANCE of the Zoning Local Law to Permit:

Request for:

**Interpretation and/or Use Variance for Existing three-family dwelling converted to four-family and;
18 ft. Side Yard Setback for Existing Side Deck and;
43 ft. Front Yard Setback for existing 5 ft. X 16 ft. Front Deck and;
43 ft. Front Yard Setback for existing 5 ft. X 20 ft. Front Deck**

All at 1101 Route 94 in an NC Zone (67-5-6)

PUBLIC HEARING will take place on AUGUST 13, 2007 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.



Michael Kane, Chairman



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-3101

Assessors Office

June 27, 2007

MMJS, Inc.
PO Box 252
LaGrangeville, NY 12540

Re: 67-5-6 ZBA#: 07-30 (34)

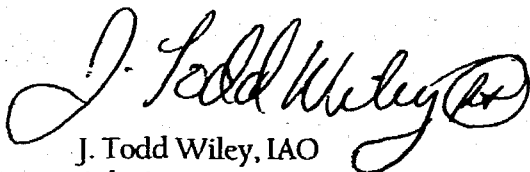
Dear Sir:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00 minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,


J. Todd Wiley, IAO
Sole Assessor

JTW/rah
Attachments

CC: Myra Mason, Zoning Board



69-4-1
PAULO SILVA &
ADAO DA SILVA
362 HARVARD AVE.
HILLSIDE, NJ 07705

69-4-2.1
CORNWALL COAL &
SUPPLY CO.
PO BOX 520
CORNWALL, NY 12518

69-4-2.2
NY CENTRAL LINES, LLC
C/O CSX
500 WATER ST. (J-910)
JACKSONVILLE, FL 32202

69-4-3
VAILS GATE BUS. CENTER, LLC
460 GETTY AVE.
CLIFTON, NJ 07011



67-4-1.1
PAUL &
DONNA MCCARTHY
58 RILEY RD.
NEW WINDSOR, NY 12553

67-4-15
TINA FRATTO
PO BOX 104
VAILS GATE, NY 12584

67-5-7
THANH TRUONG &
DUC THANG
1113 RTE. 94
NEW WINDSOR, NY 12553

67-4-1.22
BRYANT & ELLA MAE HARRIS
11231 BUNDLE RD
CHESTERFIELD, VA 23838

67-4-16
HUDSON VALLEY DRILLING
2177 RTE. 94
SALISBURY MILLS, NY 12577

67-5-8, 10.1
PETER & PATRICIA SMITH
105 CRONK RD.
WALLKILL, NY 12589

67-4-2
RONALD, RENEE, MICHAEL, &
DONNA HANDY
54 RILEY RD.
NEW WINDSOR, NY 12553

67-4-17, 18.1, 18.2
SANDY & RHODA CIANCIO
593 LAKESIDE RD.
NEWBURGH, NY 12550

67-5-9
FRANK MAURICE
14 MAURICE LN.
PO BOX 366
NEW WINDSOR, NY 12553

67-4-3
NILDA MATAL &
ROBERTO ALVAREZ
50 RILEY RD.
NEW WINDSOR, NY 12553

67-4-19
VERNON &
BRENDA PETERSON
PO BOX 494
VAILS GATE, NY 12584

67-5-10.2
ROBERT & VICTORIA MULE
PO BOX 565
VAILS GATE, NY 12584

67-4-4.1
EDWARD MIELE
STATION RD.
PO BOX 116
SOUTHFIELDS, NY 10975

67-4-20.1
GASTON PATROCINIO
1136 ROUTE 94
NEW WINDSOR, NY 12553

67-5-11
REFINED HOME RENOV. CO.
C/O CHARLES O'KELLY
PO BOX 2588
NEWBURGH, NY 12550

67-4-4.21
MICHAEL MIELE
40 RILEY RD. UNIT 2
NEW WINDSOR, NY 12553

67-4-21
MOSHIL INC.
14 FILLMORE CT. #201
MONROE, NY 10950

67-5-12, 13
FREDERICK &
CHRISTINE NACLERIO
408 CARLTON CR.
NEW WINDSOR, NY 12553

67-4-6
CECIL MARTINEZ
30 RILEY RD.
NEW WINDSOR, NY 12553

67-5-1
DANIEL NAGY
PO BOX 66
VAILS GATE, NY 12584

67-5-14
KENNETH & PATRICIA BATES
1137 RTE. 94
NEW WINDSOR, NY 12553

67-4-12.1
JOSEPH CASTELO
PO BOX M2108
HOBOKEN, NJ 07030

67-5-2
KAREN MEYER
1084 RTE. 94
NEW WINDSOR, NY 12553

67-5-15
COUNTY OF ORANGE
255-275 MAIN ST.
GOSHEN, NY 10924

67-4-12.2
ERIE PROPERTIES CORP.
401 SO. WATER ST.
NEW WINDSOR, NY 12553

67-5-4
ANGELA COLLINI
PO BOX 116
VAILS GATE, NY 12584

67-5-16
RITA SKULEVOLD
38 WELLINGTON DR. UNIT 6
NEW WINDSOR, 12553

67-4-13.1
LINDA JOBSON
PO BOX 655
VAILS GATE, NY 12584

67-5-5
ROBERT WALTKE
46 SYCAMORE DR.
WALLKILL, NY 12589

67-6-1
SANTIAGO & LIDIA MONROY
1145 RTE. 94
NEW WINDSOR, NY 12553

TOWN OF NEW WINDSOR
REQUEST FOR NOTIFICATION LIST

CHECKED BY MYRA: 06-26-07

DATE: -6-26-07 PROJECT NUMBER: ZBA# 07-30 P.B. # _____

APPLICANT NAME: MMJS, INC.

PERSON TO NOTIFY TO PICK UP LIST:

MMJS, Inc.
P.O. Box 252
LaGrangeville, NY 12540

TELEPHONE: 917-215-8161

TAX MAP NUMBER: SEC. 67 B LOCK 5 LOT 6
SEC. _____ BLOCK _____ LOT _____
SEC. _____ B LOCK _____ LOT _____

PROPERTY LOCATION: RT. 94
NEW WINDSOR

LIST OF PROPERTY OWNERS WITHIN 500 FT. FOR SITE PLANS/SUBDIVISION _____
(IS NOT PREPARED ON LABELS)

❖ ❖

THIS LIST IS BEING REQUESTED BY:

NEW WINDSOR PLANNING BOARD: _____

SITE PLAN OR SUBDIVISION: (ABUTTING AND ACROSS ANY STREET) _____

SPECIAL PERMIT ONLY: (ANYONE WITHIN 500 FEET) _____

AGRICULTURAL DISTRICT:
(ANYONE WITHIN THE AG DISTRICT WHICH IS WITHIN 500'
OF SITE PLAN OR SUBDIVISION PROJECT) _____

❖ ❖

NEW WINDSOR ZONING BOARD XXX

LIST WILL CONSIST OF ALL PROPERTY WITHIN 500 FEET OF PROJECT XXX

❖ ❖

AMOUNT OF DEPOSIT: 25.00 CHECK NUMBER: 217

TOTAL CHARGES: _____

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR <u>MM.J.S. Inc</u>	2. PROJECT NAME <u>1101 RTE 94</u>
3. PROJECT LOCATION: Municipality <u>NEW WINDSOR</u> County <u>ORANGE</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>1101 RT 94</u> <u>New Windsor, NY</u> <u>187 OVERPASS & TARKETT DRIVE</u>	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>TO get an approved license for the 4th unit.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>0.22</u> acres Ultimately <u>0.22</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <u>4 APARTMENTS ARE NOT CURRENTLY PERMITTED UNDER TOWN ZONING CODE.</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: <u>4 unit house</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval <u>CoF @ FOR 3 APARTMENTS</u>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <u>MM.J.S. INC. JAMES T. JONES</u> Date: <u>5/31/07</u>	
Signature: <u>[Signature]</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, coordinate the review process and use the FULL EAF.</p>
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:</p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p>	
<p>D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly</p>	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☐ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Date



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**



APPLICATION FOR VARIANCE

5/31/07

Date

917-213-9926

Application Type: Use Variance ☐ Area Variance ☐

Sign Variance ☐ Interpretation ☐

I.

Owner Information:

M.M.J.S., Inc

Mary Suen / Lucy Tung

Phone Number: (917) 215-8161

Fax Number: ()

(Name)

P.O. Box 282 Lagrangeville, NY 12540

(Address)

II.

Applicant:

M.M.J.S., Inc

Phone Number: (917) 215-8161

Fax Number: ()

(Name)

P.O. Box 252 Lagrangeville, NY 12540

(Address)

III.

Forwarding Address, if any, for return of escrow:

Phone Number: ()

Fax Number: ()

(Name)

(Address)

IV.

Contractor/Engineer/Architect/Surveyor/:

Phone Number (845) 565 0055

Fax Number: (845) 562 6622

MINUTA ARCHITECTURE PLLC

(Name)

345 WINDSOR HWY SUITE 100 NEW WINDSOR, NY 12553

(Address)

V.

Property Information:

Zone: NC 67-5-6 Property Address in Question: 1101 Rt 94 New Windsor, NY

Lot Size: 6 Tax Map Number: Section 67 Block 5 Lot 6

a. What other zones lie within 500 feet? C & R-3

b. Is pending sale or lease subject to ZBA approval of this Application? NO

c. When was property purchased by present owner? 11/29/06

d. Has property been subdivided previously? Yes If so, When: Before purchase date

e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? Yes

f. Is there any outside storage at the property now or is any proposed? NO

******PLEASE NOTE:*******

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

COMPLETE THIS PAGE ☐

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

VI. USE VARIANCE:

Use Variance requested from New Windsor Zoning Local Law,

Section 7-5-6 Table of NC Regs., Col. B, 2.

Describe proposal:

To get a permit for the 4th
unit. This is necessary because upon the purchase
of property, there exists 4 families residing in the
property.

- VII. The legal standard for a "Use Variance" is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the Use Variance is granted. Also state any efforts you have made to alleviate the hardship other than this application.

The purchase of this property was with
4 units; however, I did not know that there
was no licence for the 4th unit.

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**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Disapproval form you receive)

Area Variance requested from New Windsor Zoning Local Law,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area	4,3560 SF	9,583.20 SF	33,976.80
Min. Lot Width	125'	67.5'	57.5'
Reqd. Front Yd.	45'	7.56'	37.44'
Reqd. Side Yd.	40'	72 / 25.45'	32.8'
Reqd. Rear Yd.	50	81.86	NONE
Reqd. St Front*	70	67.52	2.48'
Max. Bldg. Hgt.	35	24.2' +/-	NONE
Min. Floor Area*	1,200 SF	2,440 SF	NONE
Dev. Coverage*	20%	56%	36%
Floor Area Ratio**	NA	0.2548	NA
Parking Area	2.5/UNIT	4	6

*Residential Districts Only

**Non-Residential Districts Only

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**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

- IX. In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created.

After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance:

I believe the ZBA should grant
my application for an Area Variance because
it brings no harm to the health, safety or
welfare of the neighborhood. In addition, when I
had purchased this property, I was unaware of
the violation carried out by the previous landlord for
the addition of a 4th unit. Therefore, 4 families
had already resided on the property long before
my purchase.

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**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

- IX. **In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

PLEASE ANSWER EACH OF THE FOLLOWING QUESTIONS SPECIFICALLY:

1. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; NO - EXISTING NON-CONFORMANCE.

2. Whether the requested area variance is substantial; YES - ZONING HAS CHANGED ON THIS EXISTING PROPERTY

3. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; NO EXISTING NON CONFORMANCE

4. Whether the alleged difficulty was self-created. NO - EXIST NON CONFORMANCE

**After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance:

PROPERTY IS AN EXISTING NON CONFORMANCE

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XII. ADDITIONAL COMMENTS:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)
-
-

XIII. ATTACHMENTS REQUIRED:

- ☐ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- ☐ Copy of site plan or survey (if available) showing the size and location of the lot, buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copies of signs with dimensions and location.
- ☐ Three checks: **(each payable to the TOWN OF NEW WINDSOR)**
- ☐ One in the amount of \$ 300.00 or 500.00 , (escrow)
- ☐ One in the amount of \$ 50.00 or 150.00 , (application fee)
- ☐ One in the amount of \$ 25.00 , (Public Hearing List Deposit)
- ☐ Photographs of area that variance(s) is/are being requested for showing relationship to property lines (5 or 6) from several angles. **(IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT FOUR (4) SETS OF THE PHOTOS.)**

XIV. AFFIDAVIT.

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this:

27 day of January 2007.

MJS, INC
[Signature]
Owner's Signature (Notarized)

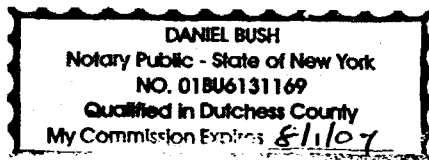
Owner's Name (Please Print)

[Signature]
Signature and Stamp of Notary

Applicant's Signature (If not Owner)

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APPLICANT/OWNER PROXY STATEMENT
(for professional representation)

for submittal to the:
TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

M.M.J.S, Inc, deposes and says that he resides
(OWNER)
at P.O. BOX 252 Lagrangenille, NY in the County of Dutchess
(OWNER'S ADDRESS)
and State of New York and that he is the owner of property tax map
(Sec. 67 Block 5 Lot 6)
designation number (Sec. _____ Block _____ Lot _____) which is the premises described in
the foregoing application and that he authorizes:

Mary Suen
(Applicant Name & Address, if different from owner)

MINUTA ARCHITECTURE, PLLC, 345 WINDSOR HWY, SUITE 100 N.W., N.Y.
(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

Date: 1/27/07

M.M.J.S. INC Mary Suen
Owner's Signature (MUST BE NOTARIZED)

Sworn to before me this:
27 day of January 2007

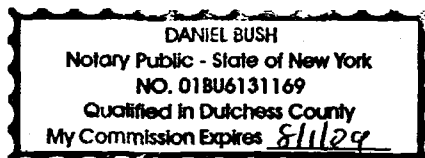
Applicant's Signature (If different than owner)

Representative's Signature

[Signature]
Signature and Stamp of Notary

THIS FORM IS TO BE COMPLETED ONLY IF SOMEONE OTHER THAN THE PROPERTY OWNER WILL BE APPEARING AS REPRESENTATION OF THE OWNER AT THE ZBA MEETINGS.

**** PLEASE NOTE:**
ONLY OWNER'S SIGNATURE MUST BE NOTARIZED.



COMPLETE THIS PAGE ☐

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Disapproval form you receive)

Area Variance requested from New Windsor Zoning Local Law,

BASED ON NC (B)(2) IF APPLICABLE

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area	10,000 SF	9,583.20 SF	416.8 SF
Min. Lot Width	100'	67.5'	32.5'
Reqd. Front Yd.	40 FT.	7.56 ft	32.44 ft
Reqd. Side Yd.	15/35 ft	7.2/25.45 ft	7.8/9.55 ft
Reqd. Rear Yd.	15'	81.86	NONE
Reqd. St Front*	N/A	N/A	N/A
Max. Bldg. Hgt.	35'	24.2' +/-	NONE
Min. Floor Area*	N/A	—	—
Dev. Coverage*	85%	56%	NONE
Floor Area Ratio**	1	0.2548	NONE
Parking Area			

*Residential Districts Only

**Non-Residential Districts Only

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TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, NY 12553
(845) 563-4615 (MYRA MASON)

3/20
12



ZONING BOARD PROCEDURES

PLEASE READ AND COMPLETE THE ATTACHED APPLICATION FORMS WHERE IT APPLIES TO YOUR SITUATION (LOOK FOR HIGHLIGHT IN BOX IN LOWER RIGHT CORNER OF EACH PAGE) AND RETURN TO MYRA MASON (845-563-4615) AT THE ZONING BOARD OFFICE (LOCATED IN THE PLANNING BOARD & ENGINEERING OFFICE IN TOWN HALL) WITH THREE CHECKS MADE PAYABLE TO **"THE TOWN OF NEW WINDSOR"** AS FOLLOWS:

RESIDENTIAL: (Three Separate Checks Please)

APPLICATION FEE:	\$ 50.00
*ESCROW:	\$300.00
**DEPOSIT FOR PUBLIC HEARING LIST:	\$ 25.00

MULTI-FAMILY: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
**DEPOSIT FOR PUBLIC HEARING LIST:	\$ 25.00

COMMERCIAL: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
**DEPOSIT FOR PUBLIC HEARING LIST:	\$ 25.00

INTERPRETATION: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
**DEPOSIT FOR PUBLIC HEARING LIST:	\$ 25.00

UPON RECEIPT OF ALL APPLICABLE PAPERWORK AND CHECKS, YOU WILL BE SCHEDULED FOR THE NEXT AVAILABLE AGENDA FOR YOUR "PRELIMINARY MEETING". YOU DO NOT NEED YOUR PUBLIC HEARING LIST OR ENVELOPES FOR THIS FIRST (PRELIMINARY) MEETING.

*

ESCROW

IS TO COVER OUTSIDE PROFESSIONAL FEES SUCH AS ZBA ATTORNEY FEE, MINUTES OF YOUR PORTION OF THE MEETING, LEGAL ADS, ETC. THE BALANCE WILL BE RETURNED TO YOU UPON CLOSING FILE.

LIST OF PROPERTY OWNERS
WITHIN 500 FT. RADIUS OF
PROPERTY IN QUESTION:

APPROXIMATE COST FOR
PUBLIC HEARING LIST:

1-10 NAMES	25.00
11-20 NAMES	35.00
21-30 NAMES	45.00
31-40 NAMES	55.00
41-50 NAMES	65.00
51-60 NAMES	75.00
61-70 NAMES	85.00
71-80 NAMES	95.00
81-90 NAMES	105.00
91-100 NAMES	115.00

ANYTHING OVER 100 NAMES
IS \$1.00 EA. ADDITIONAL
NAME

ROBERT D. KALAKA, L.S., P.C.

N.Y.S. Licensed Land Surveyor
P.O. Box 250
Wappingers Falls, New York 12590

Phone: (845) 297-5229

Fax: (845) 297-5166

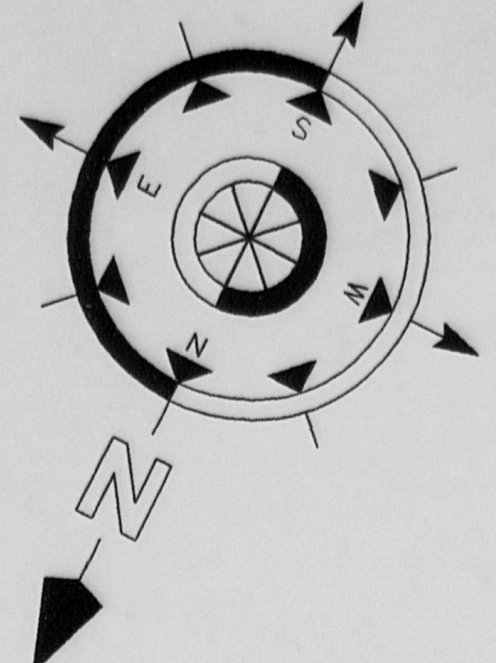
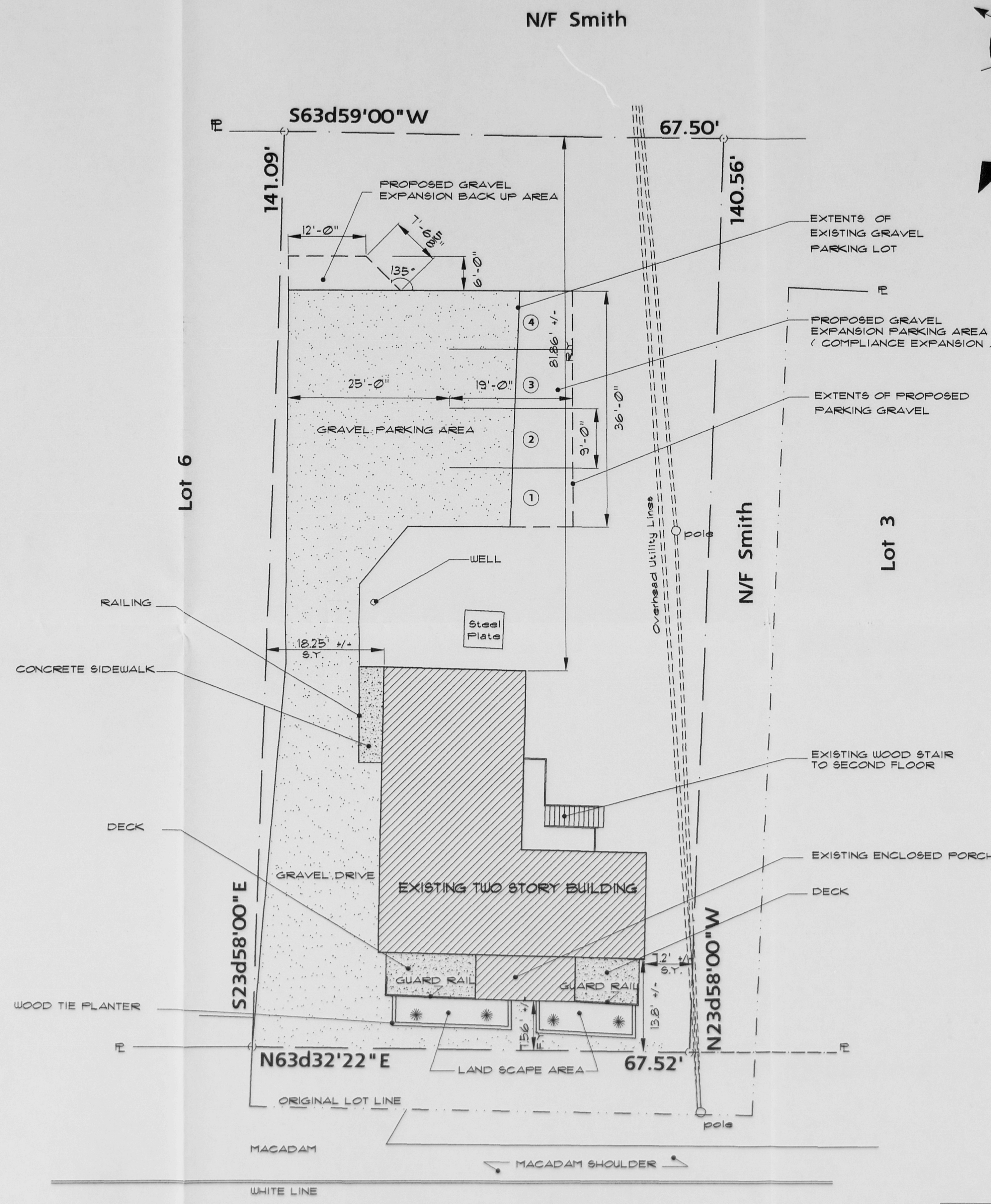
Date: 12/18/06
Job Number: 1554

Property Description
Yu Hei Tung

All that tract or parcel of land situate in the Town of New Windsor, County of Orange, State of New York, being a portion of Lot 5 as shown on a filed map entitled "Subdivision Of Lands Of Mrs. Frank Maurice", said filed map being filed in the Orange County Clerk's Office on January 28, 1952 as Map No. 1493, bounded and described as follows:

Beginning at a point on the southerly line of New York State Route 94, said point being the intersection of the southerly line of New York State Route 94 with the easterly line of lands now or formerly Smith (L.12020 P.1393); thence along the southerly line of New York State Route 94, North 63-32-22 East 67.52' to a point; thence along Lot 6 on said filed Map No. 1493, South 23-58-00 East 141.09' to a point; thence along lands now or formerly Smith (L.12020 P.1393), South 63-59-00 West 67.50' and North 23-58-00 West 140.56' to the point or place of beginning. Containing 0.22 of an acre of land, more or less.

Subject to the rights of public utilities and any easements and rights-of-way of record, if any.



BULK TABLE REQUIREMENTS			
ZONING INFORMATION	ZONE :	NC (B) (2) Neighborhood Commercial (Preexisting non conformance)	
	Proposed Use :	4 Residential Apts. (3 Previously permitted)	
	Permitted with:	Special permit of the Planning Bd. (and ZBA variance)	
MINIMUM REQUIREMENTS			
	Required	Proposed or Available	Variance Request
Lot Area	43,560.00 SF	9,583.20 SF +/-	33,976.80 SF.
Lot Width	125 FT	67.52 FT	57.6 FT
Street Frontage	70 FT	67.52 FT	2.48 FT
Min. Livable SF	NA	—	—
YARD SETBACKS			
	Required	Proposed or Available	Variance Request
Front	45 FT	7.56 FT	37.44 FT
Rear	50 FT	81.86 FT	NONE
Side	40 FT	12/ 25.45 FT	32.8 FT
Both	NA	—	—
MAXIMUM PERMITTED			
	Permitted	Proposed or Available	Variance Request
Developmental Coverage	20 %	56 %	36%
Building Area	1200 SF	2,441.80 SF	NONE
Height	35'-0"	24.23' +/-	0
Building Footprint	—	1,381.36 SF +/- (existing)	0
F.A.R.	NA	0.2848	NA
Parking Area	2.5 UNIT	4	6

PLANNING / ZBA APPROVAL BOX

INFORMATION FROM THIS PLAN HAS BEEN TAKEN FROM A SURVEY ENTITLED:
 "SURVEY MAP" PREPARED BY: YU HEI TUNG, ROBERT D. KALAKA, L.S. P.O. BOX
 250 WAPPINGERS FALLS, NY 12590.
 DATED DECEMBER 18, 2006
 TAX MAP: SECTION: 67, BLOCK: 5, LOT: 6

